

OCA FILE Leg

6 December 1988
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MEMORANDUM FOR: C/PB/PPS/OS [redacted]
ALD/OGC (Attn: [redacted])
Employment/OP [redacted]
SA/OCA (Attn: [redacted])

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FROM: [redacted] Legislation Division
Office of Congressional Affairs

SUBJECT: Draft Views Letter on DoD CHRI Proposal

1. The above letter is attached. I believe it reflects our various discussions and the materials I received to date.

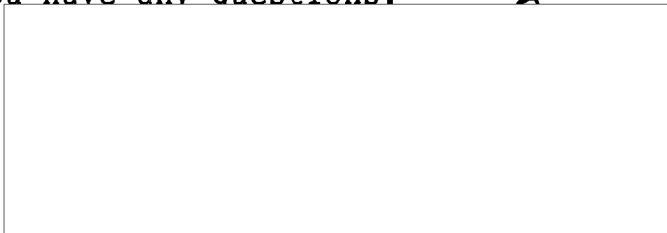
2. I would appreciate receiving your comments on the letter by noon, 7 December 1988.

3. Your cooperation is most appreciated.

4. Please call me if you have any questions.

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Attachment



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OCA/LEG/ [redacted] 6 Dec 88

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[DATE]

Mr. James C. Murr
Assistant Director for Legislative
Reference
Office of Management and Budget
Washington, D.C. 20503

Dear Mr. Murr:

This letter responds to your request for the views of the Central Intelligence Agency (CIA) on a Department of Defense (DoD) report and legislative proposal to amend the provisions of 5 U.S.C. §9101.

Currently, these provisions require state and local criminal justice agencies to provide upon request to DoD, the Office of Personnel Management (OPM), the CIA and the Federal Bureau of Investigation (FBI) criminal history record information (CHRI) on individuals under investigation by those agencies for a security clearance or for employment. 5 U.S.C. §9101 (b)(1). The federal agencies may be made to pay "reasonable" fees and any request is to be accompanied by a copy of the individual's fingerprints if required by State law as part of an automated fingerprint identification system. 5 U.S.C. §9101 (b) (1). In addition, "detention" records are not included in the body of CHRI information subject to such requests. 5 U.S.C. §9101 (a)(2).

The DoD proposal deletes the fee and fingerprint requirements and substitutes therefor a provision permitting the federal requestors to obtain CHRI directly from the state or local agency's computer system at a reasonable cost. It also includes "detention" records in the body of CHRI information subject to such requests.

In its proposed transmittal letter and report, DoD indicates that while few states currently require submission of fingerprints with such requests, the number is expected to grow. DoD asserts that while the ostensible purpose of the fingerprint requirement is to preclude misidentification, such a result would be impossible under DoD procedures. DoD also indicates that it has experienced an increase in costs in this area and believes that providing "on-line" access for federal requestors will reduce costs and generally improve the process.

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Pursuant to the Congressional reporting requirements associated with this statute, the CIA has reported to the intelligence oversight committees its experience with the fee and fingerprint requirements. These experiences, while similar, do not necessarily mirror those of DoD. CIA, however, does share DoD's concern that rising costs and increasing administrative burdens could impair the ability to conduct rigorous and thorough-going investigations.

As such, we support DoD's goals of eliminating unnecessary fingerprint requirements, reducing the cost of obtaining CHRI, and allowing federal agencies to share in the costs savings to be gained through computerization of the process. We thus support the DoD proposal and would support efforts to secure its passage.

We suggest careful consideration be given to the legislative vehicle chosen to carry this proposal. We note that the provisions of 5 U.S.C. §9101 were originally enacted into law as Section 801 of the Fiscal Year 1986 Intelligence Authorization Act (Public Law 99-169) and that the FBI was added to the group of federal agencies authorized to make CHRI requests by Section 402 of the Fiscal Year 1987 Intelligence Authorization Act (Public Law 99-569). As such, DoD may consider including the item in the Administration's proposed Fiscal Year 1990 Intelligence Authorization bill which is currently being drafted by this office. Such a proposal would have to be submitted to this office no later than 12 December 1988 and would have to have the clear indication of support by DoD. Alternatively, the item could be included in the Fiscal Year 1990 Department of Defense Authorization bill or submitted as freestanding legislation.

We would be pleased to work with all concerned on this question and, regardless of the vehicle chosen, would monitor the proposal as it moves through the legislative process to ensure it is not adversely modified.

Thank you for the opportunity to comment on this important item of legislation.

John C. Helgerson

bcc: Opal Andrews, Department of Defense
William R. Fedor, Office of the Secretary of Defense
Steve Hooks, Federal Bureau of Investigation

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